



# भारत का राजपत्र The Gazette of India

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No. 43] NEW DELHI, OCTOBER 18—OCTOBER 24, 2015, SATURDAY/ASVINA 26—KARTIKA 2, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

वित्त मंत्रालय  
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 15 अक्टूबर, 2015

**का.आ. 2016.**—निदेशक बोर्ड, राष्ट्रीय कृषि और ग्रामीण विकास बैंक, राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 60 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार के पूर्व अनुमोदन और भारतीय रिजर्व बैंक के परामर्श से राष्ट्रीय कृषि और ग्रामीण विकास बैंक (अतिरिक्त) सामान्य विनियम, 1984 का और संशोधन करने के लिए निम्नलिखित विनियम बनाता है, अर्थात्:—

1. संक्षिप्त नाम और आरंभ: (1) इन विनियमों को राष्ट्रीय कृषि और ग्रामीण विकास बैंक (अतिरिक्त) सामान्य (संशोधन) विनियम, 2015 कहा जाएगा।

(2) ये भारत के राजपत्र में प्रकाशित होने की तारीख से लागू होंगे।

2. राष्ट्रीय कृषि और ग्रामीण विकास बैंक (अतिरिक्त) सामान्य विनियम, 1984 के विनियम 3, उप-विनियम (1), खंड (ख) में निम्नलिखित को प्रतिस्थापित किया जाएगा, अर्थात्:

“(ख) धारा 6 की उप-धारा 3 के अंतर्गत नियुक्त सभी पूर्णकालिक निदेशक।”

[सं० एफआई-7/9/2015-एसी]  
ए० के० दास, अवर सचिव

पाद टिप्पण: मूल विनियम भारत के राजपत्र में 23 फरवरी, 1985 को का०आ० 740 तारीख 6 फरवरी, 1985 द्वारा प्रकाशित किए गए थे।

**MINISTRY OF FINANCE**  
(Department of Financial Services)

New Delhi, the 15th October, 2015

**S.O. 2016.**—In exercise of the powers conferred by sub-section (1) of section 60 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Board of Directors of the National Bank for Agriculture and Rural Development, with the previous approval of the Central Government and in consultation with the Reserve Bank of India, hereby makes the following regulations, further to amend the National Bank for Agriculture and Rural Development (Additional) General Regulations, 1984, namely—

**1. Short title and commencement.**—(1) These regulations may be called the National Bank for Agriculture and Rural Development (Additional) General (Amendment) Regulations, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the National Bank for Agriculture and Rural Development (Additional) General Regulations, 1984, in regulation 3, in sub-regulation (1), for clause (b), the following shall be substituted namely:—

"(b) all whole time Directors appointed under sub-section (3) of section 6".

[No. FI-7/9/2015-AC]

A.K. DAS, Under Secy.

**Foot Note:** The Principal regulations were published in the Gazette of India dated 23rd February, 1985 vide number S.O. 740 dated the 6th February, 1985.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 14 अक्टूबर, 2015

**का.आ. 2017.**—केंद्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 सहपठित धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तर प्रदेश राज्य सरकार, गृह (पुलिस) अनुभाग-12 लखनऊ की अधिसूचना संख्या सीएम-734 (सी)/6-पीयू-12-2015-13(7) डी/2015 दिनांक 24 जुलाई, 2015 द्वारा प्राप्त सहमति से पुलिस थाना सिरसागंज, जिला फिरोजाबाद, उत्तर प्रदेश में पंजीकृत मु०सं० 387/2015, धारा 120-बी/302/498-ए भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45), के अधीन दण्डनीय, में उद्भूत होने वाले तथ्यों या तथ्य या उनके संव्यवहार के क्रम में किए गए उक्त अपराधों के संबंध में या उससे संसक्त अपराधों/मामलों और किन्हीं अन्य अपराधों, प्रयत्नों, दुष्प्रेरणों और षडयन्त्र के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त उत्तर प्रदेश राज्य पर करती है।

[फा० सं० 228/33/2015-ए०वी०डी०-II]

अजीत कुमार, अवर सचिव

## MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 14th October, 2015

**S.O. 2017.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946),

the Central Government with the consent of the Govt. of Uttar Pradesh, Grih (Police) Anubhag-12, Lucknow vide Notification No. CM 734 (C)/6-PU-12-2015-13(7)D/2015-dated 24.7.2015, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of case crime No. 387/15 under section 120-B, 302 and 498-A of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Sirasaganj, District Firozabad, Uttar Pradesh and in relation to or in connection with the said case in the course of the same transaction or arising out of the same fact or facts in relation to the aforesaid case.

[No. 228/33/2015-AVD-II]

AJIT KUMAR, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 8 अक्टूबर, 2015

**का.आ. 2018.**—राष्ट्रपति, श्री प्रमोद कुमार चतुर्वेदी को दिनांक 22.09.2015 (पूर्वाह्न) से केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, अहमदाबाद के पीठासीन अधिकारी के रूप में 14.07.2019 तक अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करते हैं।

[सं० ए-11016/01/2014-सीएलएस-II]

एस० के० सिंह, अवर सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th October, 2015

**S.O. 2018.**—The President is pleased to appoint Shri Pramod Kumar Chaturvedi as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Ahmadabad with effect from 22.09.2015 (Forenoon) for a period up to 14.07.2019 or until further orders, whichever is earlier.

[No. A-11016/01/2014-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 7 अक्टूबर, 2015

**का.आ. 2019.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत इलेक्ट्रॉनिक्स लिमिटेड, पंचकुला के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ सं० 115/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/10/2015 को प्राप्त हुआ था।

[सं० एल-14011/13/2013-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th October, 2015

**S.O. 2019.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 115/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Electronics Limited, Panchkulla and their workmen, which was received by the Central Government on 06/10/2015.

[No. L-14011/13/2013-IR(DU)]

P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I, CHANDIGARH.**

Case No. ID 115 of 2013. Reference No. L-14011/13/2013-IR(DU) dated 22.10.2013.

The President, Bharat Electronics Workers Union (NTU)  
C/o Bharat Electronics Ltd., 405, Industrial Area Phase-III,  
Panchkulla (Haryana).

...Union.

*Versus*

1. The General Manager, Bharat Electronics Ltd., 405,  
Industrial Area Phase-III, Panchkulla (Haryana).

...Respondent

#### APPEARANCE

For the Union: None.

For the management: None.

#### ORDER

Passed on 30.09.2015

Government of India Ministry of Labour *vide* notification No. L-14011/13/2013-IR(DU) dated 22.10.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Bharat Electronics Ltd. Panchkulla in transferring 15 workmen as annexed from Panchkulla Unit to other units without any transfer policy is just, fair and legal? If not, what relief the concerned workmen are entitled to?"

2. Today although the date is not fixed in this case but in compliance of the order dated 16.9.2015 of the Hon'ble High Court of Punjab & Haryana in LPA No. 590 of 2014, the case has been taken up. The letter No. 1464 LPA/1 dated 28.9.2015 of Superintendent LPA for Assistant Registrar Writs, perused, in which it has been directed that

the copy of order dated 16.9.2015 passed by the Hon'ble High Court has been forwarded in the above noted case for immediate compliance.

3. In compliance of the letter mentioned above, the judgment passed in LPA No. 590 of 2014 perused in which the Hon'ble High Court passed the following order:

"Consequently, we hold that the reference as framed, is contrary to the standing orders and, therefore, not tenable. The reference is set aside but with liberty to the "appropriate Government (Govt. of India, Ministry of Labour)", to take a fresh decision in accordance with law, after considering the grievance of the workmen, which in our *prima facie* opinion may relate to the nature of the transfer orders and not to the absence of a policy and also objections, if any, that may be raised by the appellants, within a period of six weeks from the date of receipt of certified copy of this order. During this period, transfer orders shall remain in abeyance. The impugned order is, therefore, set aside and the appeal is allowed in the above terms.

4. As the reference has been set aside by the Hon'ble High Court, therefore, the file be consigned.

5. Ministry of Labour be informed. Soft as well hard copy be sent to the Central Govt.

Chandigarh.

30.09.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2020.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 202/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2020.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 202/2011) of the Central Government Industrial Tribunal cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No. L-42025/03/2015-IR(DU)]

P.K. VENUGOPAL, Desk Officer

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer.**Case No. I.D. No. 202/2011**

Registered on 12.7.2011

Sh. Som Dutt, S/o Late Sh. Asha Ram, R/o Prem Nagar,  
Ward No. 6, Gali No. 4, Tehsil Amloh, Mandi Gobindgarh  
District Fatehgarh Sahib.

.....Petitioner

*Versus*

General Manager, Telecom, BSNL, Patiala &amp; Anr.

.....Respondent

**APPEARANCES**

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Mrs. Deepali Puri, Adv.

**AWARD**

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Chowkidar by the Office of Divisional Engineer of the respondent-management on 19.2.1994 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 2.10.1998. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."

In compliance of the said order, the respondent-

management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made overments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute inter-se parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same *vide* award dated 1.4.2010 holding as follow:—

"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents *vide* Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.



Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

#### Issue No. 1 :—

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that through respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High

Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status' under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal

and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### Issue No. 2 :—

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2021.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 203/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2021.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 203/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No. L-42025/03/2015-IR(DU)]  
P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** SRI KEWAL KRISHAN, Presiding Officer

**Case No. I.D. No. 203/2011**

Registered on 12.7.2011

Sh. Jagdish Singh, S/o Sh. Sucha Singh, R/o Village Isher-Hail, P.O. Balhari Kalan, Tehsil & District Fatehgarh Sahib.

...Petitioner

#### Versus

General Manager, Telecom, BSNL, Patiala & Anr.

...Respondents

#### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.  
For the Management : Sh. Deepali Puri, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management in September, 1992 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 3-3-1999. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been

in employment and paid directly by the Respondent Company. The petitioners however, made overments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute *inter-se* parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same *vide* award dated 1.4.2010 holding as follow:—

"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents *vide* Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?

2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

#### Issue No. 1 :—

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that through respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment

including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status' under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### Issue No. 2 :—

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2022.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 204/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2022.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 204/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No. L-42025/03/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 204/2011**

Registered on 12.7.2011

Sh. Bahadur Singh, S/o Sh. Amrik Singh, R/o Village Isher-Hail, P.O. Balhari Kalan, Tehsil & District Fatehgarh Sahib.

.....Petitioner

#### Versus

General Manager, Telecom, BSNL, Patiala & Anr.

.....Respondents

#### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Sh. Rakesh Verma, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not



adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management in August, 1996 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 24.05.2003. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided vide order dated 18.10.2001 with the following observations:—

"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made overments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute inter-se parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same vide award dated 1.4.2010 holding as follow:—

"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents vide Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

**Issue No. 1**

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that though respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the sole statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was

the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it, but was engaged through a contract and was not entitled to the grant of 'temporary status under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

**Issue No. 2**

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2023.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 205/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2023.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 205/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No. L-42025/03/2015-IR(DU)]  
P.K. VENUGOPAL, Desk Officer

### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer.

**Case No. I.D. No. 205/2011**  
Registered on 12.7.2011

Sh. Pavittar Singh, S/o Sh. Surjit Singh, R/o Vill. Polo Majra, P.O. Sanghol, Tehsil Khamano, District Fatehgarh Sahib.

...Petitioner

*Versus*

General Manager, Telecom, BSNL, Patiala & Anr.

...Respondents

#### APPEARANCES:

For the Workman : Sh. Barjesh Mittal, Adv.  
For the Management : Sh. Rakesh Verma, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management in August, 1996 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 24.05.2003. The record of muster roll and work register are available with the management.

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respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."

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In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

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1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

#### **Issue No. 1**

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note

and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that though respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the sole statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never



engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### Issue No. 2

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer.

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2024.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 206/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2024.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 206/2011) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No.L-42025/03/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer.

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer.

**Case No. I.D. No. 206/2011**

Registered on 12.7.2011

Sh. Manjeet Singh, S/o Late Sh. Garib Singh, R/o Village Datarpur, P.O. Morinda, Tehsil & District Rupnagar.

.....Petitioner

**Versus**

General Manager, Telecom, BSNL, Patiala & Anr.

.....Respondents

#### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Sh. Rakesh Verma, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management on September, 1997 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 31.03.1999. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

**"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."**

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that

workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made overments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute inter-se parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same vide award dated 1.4.2010 holding as follow:—

"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents vide Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused the file. The issue wise findings are as follow:—

#### Issue No. 1

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that though respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal

and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

## Issue No. 2

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer.

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2025.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 208/2011 को प्रकाशित करती है जो केन्द्रीय सरकार को 12.10.2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2025.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 208/2011) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12.10.2015.

[No. L-42025/03/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

## ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer.

**Case No. I.D. No. 208/2011**

Registered on 12.7.2011

Sh. Chet Pal, S/o Sh. Chela Ram, R/o H.No. 236, Prem Nagar, Ward No. 6, Gali No. 8, Tehsil Amloh, Mandi Gobindgarh, District Fatehgarh Sahib.

.....Petitioner

*Versus*

General Manager, Telecom, BSNL, Patiala & Anr.

.....Respondents

### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Mrs. Deepali Puri, Adv.

### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Safai Karamchari by the Office of Divisional Engineer of the respondent-management in January, 1998 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 24.05.2003. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

**"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."**

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

**"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the**

**contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made overments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute inter-se parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."**

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same *vide* award dated 1.4.2010 holding as follow:—

**"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents *vide* Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."**

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?



2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

#### **Issue No. 1**

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that through respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment

including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status' under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### **Issue No. 2**

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2026.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 209/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/10/2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2026.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 209/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42025/03/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 209/2011**

Registered on 12.7.2011

Sh. Manjinder Preet Singh S/o Late Sh. Sarwan Singh, R/o Village Isher-Hail, P.O. Balhari Kalan, Tehsil & District Fatehgarh Sahib.

... Petitioner

*Versus*

General Manager, Telecom, BSNL, Patiala & Anr.

... Respondents

#### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Sh. Rakesh Verma, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management in November, 1995 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 03.03.1999. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

**"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."**

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

**"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made averments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute inter-se parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."**

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court,

Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same *vide* award dated 1.4.2010 holding as follow:—

**"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents vide Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."**

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused and file. The issue wise findings are as follow:—

#### Issue No. 1:—

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that though respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the sole statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages,

which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status' under the (grant of temporary status and regularization) Scheme 1989.

The workman along with others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### Issue No. 2:—

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली 12 अक्टूबर, 2015

**का.आ. 2027.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, पटियाला और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ सं० 210/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/10/2015 को प्राप्त हुआ था।

[सं० एल-42025/03/2015-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2027.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 210/2011) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Patiala & others and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42025/03/2015-IR(DU)]

P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 210/2011

Registered on 12.7.2011

Sh. Girja Shankar Pandey, S/o Late Sh. Kamla Pandey, Residence of C/o Manjet Singh, Village Datarpur, P.O. Morinda, Tehsil & District Rupnagar

...Petitioner

*Versus*

General Manager, Telecom, BSNL, Patiala & Anr.

...Respondents

#### APPEARANCES

For the workman : Sh. Barjesh Mittal, Adv.

For the Management : Mrs. Deepali Puri, Adv.

#### AWARD

Passed on 31.8.2015

The workman directly submitted statement of claim in this Court, as his demand notice dated 20.02.2011, was not adjudicated by Assistant Labour Commissioner within a period of 45 days.

According to the workman, he was engaged as Daily Rated Mazdoor/Helper Technician by the Office of Divisional Engineer of the respondent-management in June, 1994 on muster roll. He continuously worked with the respondent-management and his services were illegally terminated on 24.05.2003. The record of muster roll and work register are available with the management.

The workman along with others filed OA No. 671-PB-99 before the Central Administrative Tribunal, which was decided *vide* order dated 18.10.2001 with the following observations:—

"In view of the decision of the Full Bench and the Stand taken by the Learned Counsel for the respondents, original Application disposed off with a direction to them to



consider the case of the applicants, for grant of Temporary Status, within a period of 2 months from today and in case the applicants are held entitled to the grant of Temporary Status, they shall be taken back in service, if not already in service, and grant them consequential benefits, in terms of continuity of service except that they shall not be entitled to the salary for the period they remained out of job, but for other purposes, they shall be deemed to be in service. No costs."

In compliance of the said order, the respondent-management passed order dated 16.1.2002 holding that workman and others are not entitled to temporary status and regularization under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme, 1989 on the ground that they were engaged through contractor.

The workman and others filed Civil Writ Petition No. 1904 of 2002 which was disposed off by the Hon'ble High Court with the following observations:—

"We have heard the Ld. Counsel for the parties. It is the case of the petitioners that though initially they have been employed as Daily Rated Employees through a Contractor but on the scraping of the contract system, after 1999, the petitioner had been in employment and paid directly by the Respondent Company. The petitioners however, made averments in the petition in this regard, but have not been able to produce on record any documentary evidence. In the reply filed by the respondents, the positive stand is that the petitioners continued to be employed on contract basis through a Contractor. We accordingly find that the dispute *inter-se* parties appear to be one of the disputed questions of fact. We accordingly relegate the petitioners to their remedy before the Labour Court."

The workman and others filed an application No. 966 of 2003 before the Learned Presiding Officer, Labour Court, Patiala, where the matter remained pending and the Government of India issued a notification dated 31.10.2008 transferring jurisdiction regarding service matters to the Central Administrative Tribunal. The application before the Labour Court was withdrawn on 26.9.2008. The workman and others filed OA No. 578/PB/08 before the Hon'ble CAT, Chandigarh who decided the same *vide* award dated 1.4.2010 holding as follow:—

"For the above reasons, the relief prayed by the applicant in the present OA is hereby declined as we find no illegality in the orders impugned and passed by the respondents *vide* Annexure P-2 dated 16.1.2002. The OA stands disposed off with the observations given above, however, with no order as to costs."

The said order was challenged before the Hon'ble High Court by filing Civil Writ Petition No. 19844 of 2010, which was dismissed on 9.11.2010, holding that workers have failed to prove that they were employed by the department and further held that it is a question of fact, which cannot be gone into in proceedings under Article 226 of the Constitution.

In these circumstances, the workman was left with no option, but to agitate the matter before this Court for adjudication, whether he was engaged directly by the respondent-management and further pleaded that he be reinstated in service with all the benefits.

Respondent-management filed written reply denying that workman was ever employed by it or there was any relationship of master and servant between the parties. It is pleaded that the respondent-management was entering into contracts for getting the petty jobs done through the contractor and the workman was never engaged by it. That no record relating to the workman is available with the respondent-management. The action initiated by the workman and others was not correct.

Following issues were framed for decision:—

1. Whether there exists a relationship of master and servant between the employer and employee?
2. If the workman is an employee of the management-respondent, whether the services of the workman were terminated in violation of the provisions of Section 25F and 25G of the Industrial Disputes Act? If yes, to what relief the workman is entitled?

Parties were given opportunities to lead their evidence in support of their case.

I have heard Sh. Brijesh Mittal for the workman and Smt. Deepali Puri for the management and perused the file. The issue wise findings are as follow:—

#### Issue No. 1:—

In support of this issue, the workman Som Dutt appeared in the witness box and filed his affidavit reiterating his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Amrik Singh Malhotra, SDE MGG, who filed his affidavit supporting the case of the respondent-management.

It was contended by the learned counsel for the workman that the workman was employed by the management and the workman worked there for sufficient long time and he was entitled to the grant of 'temporary status' but instead of granting him a 'temporary status', his services were illegally terminated and he is entitled to be reinstated in service with all the benefits. In support of his contention, he has carried me through the advice note and

submitted that complaints were marked to workman and counter-signed by the officers of the respondent-department and thus, the workman was an employee of the respondent-management and further submitted that though respondent-management has pleaded that it used to give contract for petty jobs but did not bring anything on file to prove that it has ever given contract for the petty jobs, which show that workman was directly employed by the respondent-management.

I have considered the contentions raised by the learned counsel.

The workman has agitated the matter before the Central Administrative Tribunal as well as before the Hon'ble High Court and this is 5th round of litigation he has initiated to claim the relief of 'temporary status and reinstatement in service'.

So far as the advice notes are concerned, these are not proved on the file. If this was signed by some officers of the respondent-management, the workman was required to prove it by examining the said officers but no one was examined. No reliance can be placed on the said paper to hold that the workman was directly employed by the respondent-management.

Respondent-management is a statutory body and maintain its records for making any type of payment including wages to its employees. The workman did not produce any record to establish that he was ever paid any wages by the respondent-management. He also did not produce any appointment letter issued by the respondent-management. In the circumstances, it is hard to believe from the sole statement of the workman to hold that he was ever engaged by the respondent-management.

If the management did not establish that it has given contract for doing petty jobs, the workman do not draw any benefit from it. It was for the workman to prove that he was engaged by the respondent-management and it was the respondent-management who used to pay him wages, which he has failed to prove, and being so, the non-production of any evidence regarding the giving of contract by the respondent-management is of no consequence.

The contention raised by the learned counsel that the respondent-management has not produced the record despite moving of an application by him is of no consequence as it is a stand of the respondent-management that the workman was never its employee and being so, no record was supposed to be maintained by it.

It is the case of the workman himself that he approached the Central Administrative Tribunal who directed the respondent-management to consider his case for the grant of 'temporary status' *vide* order dated 18.10.2001. In pursuance of the said order, the management passed order dated 16.1.2002 holding that the workman was never

engaged by it but was engaged through a contract and was not entitled to the grant of 'temporary status under the (grant of temporary status and regularization) Scheme 1989.

The workman alongwith others again filed OA No. 578/PB/08 before the Central Administrative Tribunal, who disposed off the same *vide* order dated 1.4.2010 upholding the order passed by the respondent-management.

Thus, the department has concluded that workman was not its employee, and the order passed by it was upheld by the competent forum before whom the matter was agitated. In the circumstances, the matter cannot be agitated time and again. In view of the order of the competent tribunal and the evidence discussed above, it cannot be said that there was a relationship of master and servant between the workman and the management.

In result, this issue is decided against the workman.

#### Issue No. 2:—

In view of findings under issue No. 1, this issue is also decided against the workman.

In result, the workman is not entitled to any relief and his claim is accordingly dismissed.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2028.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोल पनबिजली बांध प्रोजेक्ट, एनटीपीसी, बिलासपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ सं० 168/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/10/2015 को प्राप्त हुआ था।

[सं० एल-42012/253/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2028.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 168/2011) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kol Dam Hydro Electric Power Project, NTPC, Bilaspur and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42012/253/2010-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer

Case No. 168/2011

Registered on 24.5.2011

Sh. Shyam Lal S/o Sh. Durga Ram, Vill. Hawanikal, PO  
Kandhar, Tehsil Arki, Solan (Himachal Pradesh).

.....Applicant

**Versus**1. The General Manager, Kol Dam Hydro Electric Power  
Project, NTPC, VPO Barmana, Bilaspur.2. The Managing Dir., M/s AKS Engineers and  
Contractors Kol Dam Hydro Electric Power Project, Sanjay  
Sadan, Chhota Shimla-1710023. Proj. Manager, Italian Thai Development Co. Ltd., Kol  
Dam Hydra Electric Power Project, Village Kayan, PO  
Slapper, Tehsil. Sundernagar, Mandi.

.....Respondents

**APPEARANCES**

For the workman : Sh. M.S. Gors, Adv.

For the Management : Resp. No. 1 and 2 ex parte

Sh. H.R. Sharma for Resp. No. 3

**AWARD**

Passed on: 7.9.2015

Vide Order No. L-42012/253/2010-IR(DU), dated 20.4.2011 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

"Whether the retrenchment of services of sh. Shyam Lal S/o Sh. Durga Ram by the Managing Director, M/s AKS Engineers & Contractors, Sanjay Sadan, Chhota Shimla (HP) vide order dated 31.7.2008 without following the principle of 'last come first go' is legal and justified? What relief the workman is entitled to from the above employer?"

In response to the notice, the workman appeared and submitted statement of claim, pleading that respondent No. 1 is the principal employer who was constructing "Dam" and engaged respondent No. 3 as its main contractor. The respondent No. 3 engaged respondent No. 2 as Sub-Contractor. The workman was appointed through respondent No. 2 on 16.8.2004 and continuously worked till 31.7.2008 when he was 'retrenched'.

The workman challenged the 'retrenchment' on the ground that the persons junior to him, were retained in service as well as the management employed large number of workers after termination of his service. He be reinstated in service.

Respondent No. 1 and 2 were proceeded against ex parte.

Respondent No. 2 filed written statement admitting the relationship and pleaded that the workman was retrenched due to completion of work after paying him retrenchment compensation as per law.

Parties were given opportunity to lead the evidence.

In support of his case Sh. Shyam Lal workman appeared in the witness-box and filed his affidavit reiterating the stand taken by him in the statement of claim.

On the other hand, Mr. H.R. Sharma appeared on behalf of Respondent No. 3 and filed his affidavit in support of its case.

I have heard Mr. Gors for the workman and Mr. H.R. Sharma for respondent No. 3.

There is no denial of the fact that the workman was employed by respondent No. 2 on 16.8.2004 and he was retrenched from service on 31.7.2008 after paying compensation as required under Section 25F of the Act. The workman while appearing in the witness-box has admitted that he was paid the compensation at the time of his termination of his service. There is nothing to suggest that 'retrenchment' made by the respondent is invalid.

The objection taken by the workman is that persons junior to him were retained in service, as well as the management employed more persons after the termination of his service. But there is no cogent evidence on the file to prove the said facts. It cannot be said from the bare statement of the workman that persons junior to the workman were retained in service and some other persons were appointed by the respondent-management after the termination of the service of the workman. Thus, it cannot be said that the management did not follow the principle of 'last come first go' and rather the 'retrenchment' being made as per law is legal and valid.

In result the reference is answered against the workman and he is not entitled to any relief.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2029.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार समिति के प्रबंध, ARTRAC कैटीन, शिमला के प्रबंधतंत्र के संबद्ध नियोजकों और उनके

कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 279/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/10/2015 को प्राप्त हुआ था।

[सं० एल-42012/23/2013-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2029.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 279/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Managing Committee ARTRAC Canteens, Shimla and their workman, which was received by the Central Government on 12/10/2015.

[No.L-42012/23/2013-IR(DU)]  
P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 279/2013

Registered on 28.6.2013

Sh. Raj Kumar, S/o Sh. Sukhram Rathod, R/o Mandyal House Village Upper Chamina, PO Kamla Nagar, Shimla (Himachal pradesh)-171006.

....Petitioner

*Versus*

1. The Chairman, Managing Committee ARTRAC Canteens, Shimla (Himachal Pradesh)..
2. The Manager, ARTRAC Canteen, Shimla (Himachal pradesh).

..... Respondents

#### APPEARANCES

For the workman : Sh J.C. Bhardwaj, Adv.

For the Management : Sh. Vijay Arora, Adv.

#### AWARD

Passed on: 16.9.2015

Central Government vide Notification No. L-42012/23/2013-IR(DU) Dated 20.6.2013, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter

referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the Managing Committee of ARTRAC Canteen, Shimla in terminating the services of Sh. Raj Kumar w.e.f. 30.9.2012/8.1.2013 without following the procedure laid down U/s 25-F of ID Act, 1947 is legal and justified? To what relief the workman is entitled to and from which date?"

The facts, in brief are that the workman was appointed as daily wager with the respondent-management on 1.9.2004 by issuing appointment letter (Annexure P-1). He was upgraded as Sales Attendant w.e.f. 1.2.2007 (Annexure P-2). He continued serving at Shimla and was transferred to URC Canteen Ghumarwin on 15.11.2011. But he did not join duty due to certain unavoidable circumstances. the representation made by him was not considered by the respondent-management. He approached to Central Administrative Tribunal by moving AO No. 1267/HP/2011, which was dismissed on 24.5.2012. He approached the Hon'ble High Court of Himachal pradesh by filing Writ Petition No. 4481/2012, which was dismissed on 27.9.2012. Thereafter, he went to Ghumarwin to submit his joining report but was not accepted by stating that his services were terminated on 24.12.2011. The respondent-management again passed a termination order on 8.1.2013. That the termination order is illegal as the same was issued without compliance of the provisions of Section 25F of the Act as well as termination was ordered without conducting any inquiry as envisaged under the "Rules relating to terms and conditions of service of civilian employees of unit run Canteen" (hereinafter called the rules). As such his termination is illegal and he be reinstated in service with back wages.

Respondent-management pleaded that as per agreement, the workman was liable to be transferred and on his refusal to join, his services were to be terminated. That respondent-management is private unit run canteen and not under the administrative control of the Ministry of Defence. That the order passed by the respondent-management is legal and valid as the workman has failed to join at the place of his posting of transfer.

Parties were given opportunity to lead their evidence.

In support of his case, the workman appeared in the witness-box and filed his affidavit reiterating the case as stated in the claim petition.

On the other hand, the respondent-management examined Col. R.S. Mehta, who filed his affidavit reiterating the case of the respondent-management as stated in the written statement.

I have heard Sh. J.C. Bhardwaj for the workman and Sh. Vijay Arora for the management.



It may be added that the workman has taken alternative pleas to challenge his termination i.e. he was terminated without conducting of any inquiry and following the procedure as laid down under the rules, and secondly that he was not paid any retrenchment compensation, but at the time of arguments, the only argument advanced was regarding non-observation of the rules. Rule 22 of the Rules read as follow:—

**ACT OF COMMISSION/OMISSION CONSTITUTING MISCONDUCT:—**

The following acts of commission/omission shall constitute misconduct:—

- (a) Misappropriation or theft;
- (b) Casual performance of duties resulting in loss of stores, fund, or image of the Canteen;
- (c) Two or more instances of absence without leave or lack of punctuality;
- (d) Insubordination to senior employee;
- (e) Intoxication whether of drugs or any other means;
- (f) Contravention of any provisions of these rules or by rules made by the employer or other order issued from time to time by such employer;
- (g) Any act/omission, which constitutes an offence under any law for the time being in force in the country.

Rule 23 provides the Punishment to be awarded and Rule 24 prescribes the Procedure to be followed.

Rule 24 read as follow:—

"Before awarding to an employee any of the punishment mentioned in Rule 23 following procedure shall be followed by the disciplinary authority:—

- (A) The employee shall be served with a charge sheet, clearly stating the details of misconduct against him and calling upon him to show cause as to why one or more of the punishments included in these Rules should not be awarded to him.
- (B) The reply to the charge sheet, if any shall be duly considered by the disciplinary authority.
- (C) If the employee so desires he is to be heard in person and is also to be allowed to cross-examine witness(es) against him or produce witnesses in his defence. The disciplinary procedure is laid down in Schedule 'B'."

Thus, Rule 22 define misconduct and Rule 24 prescribes the procedure to be followed for taking disciplinary action.

The admitted facts are that the workman was transferred from Shimla to Ghumarwin on 15.11.2011. He did not join at

his place of posting and rather opted to avail legal remedies by filing application before the Central Administrative Tribunal as well as before the Hon'ble Shimla High Court. After the disposal of the writ petition, his services were terminated on 8.1.2013 (Annexure P12). Thus, the termination order was passed as the workman failed to join his place of posting. On transfer from one place to another, if a workman do not join his duty, the same amounts to 'misconduct'. As per the rules stated above, the employee was to be served with a charge sheet and calling upon him to show cause as to why the punishment be not awarded to him and after getting the reply and giving him personal hearing, the action was to be taken. But in the present case the respondent-management did not issue any charge sheet to the workman as required under the rules and issued the termination order without following the procedure. In the circumstances, it is to be held that the termination of the services of the workman is illegal.

Now the question is whether the workman is entitled to back wages. The workman did not join duty in pursuance of the transfer orders and indulged in fruitless litigation by questioning his transfer. Again there is nothing on the file that he remained without work after the termination of his services. In these circumstances he is not entitled to any back wages.

In result, the reference is answered holding that termination of the services of the workman w.e.f. 8.1.2013 is illegal and unjust. The management is directed to reinstate him in service within two months of the publication of the award and post him anywhere it likes. The management is also at liberty to initiate action against the workman as per rules, if so desired.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2030.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गैमन इंडिया लिमिटेड, कुल्लू के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 331/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-2015 को प्राप्त हुआ था।

[सं. एल-42012/152/2013-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2030.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 331/2013) of the

Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Gammon India Ltd., Kullu and their workmen, which was received by the Central Government on 12-10-2015.

[No. L-42012/152/2013-IR(DU)]  
P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer.

**Case No. I.D. No. 331/2013**  
Registered on 25.2.2014

Sh. Sachin (Legal heir of S/o Late Sh. Kondia, S/o Sh. Roshia) House No. 290, Gali No. 14, Bal Krishan Road, Krishna Nagar, Hoshiarpur (Punjab).

....Petitioner

*Versus*

1. The Project Manager/Incharge Gammon India Ltd., Rampur H.E. Project, Package 1, P.O.-3, Rampur, Kullu (H.P.)-172001

....Respondent

#### APPEARANCES

For the workman : Workman ex parte.  
For the Management : Kailash Sharma, Adv.

#### AWARD

Passed on: 16.9.2015

Central Government vide Notification No. L-42012/152/2013-IR(DU) Dated 11.2.2014, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of termination of service of Late Sh. Kondaiai S/o Sh. Roshia now represented by his son and legal heirs Sh. Sachin w.e.f. 20.11.2010 by the management of Project Manager, Gammon India Ltd. Rampur HE Project is legal, just and valid? If not, to what relief the workman is entitled to and from which date?"

In response to the notice the legal representatives of the workman filed statement of claim pleading that workman Kondaiai was appointed as Security Guard with the respondent-management. He applied for leave due to sickness and when discharged from the hospital, he reported for duty. But he was not allowed to join the duty. That his

signature was taken on blank paper when he applied for leave and the same was converted into resignation. He did not sign any resignation letter.

The workman died during the pendency of the proceedings before the Labour Commissioner and the present claimants were impleaded as his legal heirs.

Respondent-management filed written reply admitting the relationship and pleaded that the workman voluntarily submitted his resignation on 20.11.2010 on the ground of ill-health. His date of birth was 6.4.1941 and he had completed 68 years of age at the time of submission of his resignation. He was paid all the dues when he resigned and the claimants now put forward are false claim.

The claimants were proceeded against ex part vide order dated 16.12.2014.

Thereafter, the management filed an affidavit of Mr. R.C. Rawat.

I have heard the counsel for the management. There is no denial of relationship of employer and employee between the parties. According to the management, the workman submitted resignation voluntarily on 20.11.2010 which was accepted and all the dues was paid to him. The claimants has set up a definite case that the signature of the workman was obtained by misrepresentation on a paper which was later controverted to "resignation letter." But no evidence has been lead by the claimants to prove said assertions. In view of the affidavit of Mr. Rawat and the resignation letter (Annexure-R3) it cannot be said that the signatures of the workman were obtained on it by any misrepresentation.

Since the workman has submitted his resignation, it cannot be said that his services were terminated by the respondent-management, and the workman is not entitled to any relief.

The reference is accordingly answered against the claimants.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2031.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, चंडीगढ़ और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 741/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-2015 प्राप्त हुआ था।

[सं. एल-40012/52/2000-आई आर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2031.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 741/2005) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Chandigarh & others and their workmen, which was received by the Central Government on 12-10-2015.

[No. L-40012/52/2000-IR(DU)]

P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 741/2005

Registered on 2.9.2005

Sh. Avtar Singh C/o Sh. Karam Singh, 4093, Maloya Colony, Chandigarh-160001.

....Applicant

*Versus*

1. The General Manager, Telecom, Sector-18, Chandigarh-160001.
2. Telegraph Office, General Post Office, Sector-17 (Ist Floor), U.T., Chandigarh.

....Respondent

#### APPEARANCES

For the workman : Ex parte.

For the Management : Sh. G.C. Babbar, Adv.

#### AWARD

Passed on 11.9.2015

Vide Order No. L-40012/52/2000-IR(DU), dated 30.5.2000 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial disputes Act, 1947 (in short Act) has referred the following Industrial dispute for adjudication to this Tribunal.

"Whether the action of the management of General Manager, Telecom, Chandigarh in terminating the services of Sh. Avtar Singh is legal and justified? If not, to what relief the workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim, pleading that he joined respondent No. 2 on 7.2.1996 and was drawing a salary of Rs. 1500/- at the time of termination of his service. he

challenged the termination on the ground that he was not paid any retrenchment compensation and the persons junior to him, were retained in service as well as the management employed new persons in his place. His termination being illegal, he be reinstated in service.

Respondent-management filed written statement controverting the averments and denied that workman was ever employed by it. It is pleaded that it used to give tender for the supply of labour for emergency work and the workman was never employed by it.

Parties were given opportunity to lead evidence in support of his case.

Avtar Singh appeared in the witness-box and filed his affidavit reiterating the stand taken by him.

On the other hand, management examined Sh. Ashok Kumar, who filed his affidavit reiterating the stand taken by the management.

The workman was proceeded against ex parte vide order dated 26.5.2015.

I have heard Sh. G.C. Babbar for the management and perused the file carefully.

This is the case of the workman that he was employed by the respondent-management on 7.2.1996. Respondent-management is a statutory body having its rules and regulations for giving employment. Nothing has come on the file to show that the workman was ever employed by the respondents by following any procedure.

The workman did not place on record any appointment letter to prove that he was actually employed by the respondents. The respondent-management maintain its record for making every type of payment including wages to its employees but no such record has come on the file to establish that the management has ever paid wages to the workman. In the circumstances, it cannot be said that the workman was ever engaged by the respondents and there was any relationship of employer and employee between the parties. When it is so, it cannot be said that the services of the workman was terminated by the respondent-management.

In result, the reference is answered against the workman and he is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2032.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बीएसएनएल, चंडीगढ़ और दूसरों के प्रबंधंत्रा के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 चंडीगढ़ के पंचाट

(संदर्भ सं० 742/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 12-10-2015 को प्राप्त हुआ था।

[सं० एल-40012/50/2000-आईआर( डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2032.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 742/2005) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom, BSNL, Chandigarh & others and their workmen, which was received by the Central Government on 12-10-2015.

[No.L-40012/50/2000-IR(DU)]  
P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. 742/2005  
Registered on 2.9.2005

Sh. Pavitter Singh S/o Sh. Karam Singh, 4093, Maloya Colony, Chandigarh-160001.

....Applicant

*Versus*

1. The General Manager, Telecom, Sector-18, Chandigarh-160001.

2. Telegraph Office, General Post Office, Sector-17(1st Floor), U.T., Chandigarh.

....Respondent

#### APPEARANCES

For the workman — Ex parte

For the management — Sh. G.C. Babbar, Adv.

#### AWARD

Passed on:—11.9.2015

Vide Order No.L-40012/50/2000-IR(DU), dated 30.5.2000 the Central Government in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

"Whether the action of the management of General manager, Telecom, Chandigarh in terminating the

service of Sh. Pavitter Singh is legal and justified? If not, to what relief the workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim, pleading that he joined respondent No. 2 on 10.2.1996 and was drawing a salary of Rs. 1500/- at the time of termination of his service. He challenged the termination on the ground that he was not paid any retrenchment compensation and the persons junior to him, were retained in service as well as the management employed new persons in his place. His termination being illegal, he be reinstated in service.

Respondent-management filed written statement controverting the averments and denied that workman was ever employed by it. It is pleaded that it used to give tender for the supply of labour for emergency work and the workman was never employed by it.

Parties were given opportunity to lead evidence in support of his case. Pavitter Singh appeared in the witness-box and filed his affidavit reiterating the stand taken by him.

On the other hand, management examined Sh. Mohinder Pal, who filed his affidavit reiterating the stand taken by the management.

The workman was proceeded against ex-parte vide order dated 26.5.2015.

I have heard Sh. G.C. Babbar for the management and perused the file carefully.

This is the case of the workman that he was employed by the respondent-management on 10.2.1996. Respondent-management is a statutory body having its rules and regulations for giving employment. Nothing has come on the file to show that the workman was ever employed by the respondents by following any procedure.

The workman did not place on record any appointment letter to prove that he was actually employed by the respondents. The respondent-management maintain its record for making every type of payment including wages to its employees but no such record has come on the file to establish that the management has ever paid wages to the workman. In the circumstances, it cannot be said that the workman was ever engaged by the respondents and there was any relationship of employer and employee between the parties. When it is so, it cannot be said that the services of the workman was terminated by the respondent-management.

In result, the reference is answered against the workman and he is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer



नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2033.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोल पनबिजली बांध प्रोजेक्ट, एनटीपीसी, बिलासपुर के प्रबंधन के संबद्ध नियोजको और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2, चंडीगढ़ के पंचाट (संदर्भ सं० 95/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12/10/2015 को प्राप्त हुआ था।

[सं० एल-42012/131/2010-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2033.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 95/2011) of the Central Government Industrial Tribunal Cum Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kol Dam Hydro Electric Power Project, NTPC, Bilaspur and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42012/131/2010-IR(DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II,  
CHANDIGARH**

Present: Sri Kewal Krishan, presiding Officer.

Case No. I.D. No. 95/2011

Registered on 24.01.2011

Sh. Inder Singh S/o Sh. Bangalu Ram, VPO Slapper,  
Tehsil Sunder Nagar, Mandi (HP).

....Petitioner

*Versus*

1. The General manager, Kol Dam Hydro Electric power Project, NTPC VPO Barmana, Dist. Bilaspur, HP
2. The Managing Director, M/s AKS Engineers & Contractors, Kol Dam Hydro Electric Power Project, sanjay Sadan, Chhota Shimla-171002.
3. The Project manager, M/s Italian Thai Development Co. Ltd., Kol Dam Hydro Electric Power Project, Village Kayan, Post Office Slapper, Tehsil Sunder Nagar, Distt. Mandi(HP)
4. M/s ITD Cementation India Limited, Kol Dam Hydro electric Power Project, Village Kayan, Post Office Slapper, Tehsil Sunder Nagar, Distt. Mandi(HP)

.....Respondents

**APPEARANCES**

For the workman : Sh. M.S. Gors, Adv.

For the Management:—

For Respondent No. 1 : Sh. Ex-Parte

For Respondent No. 3 : Sh. Hem Raj Sharma

For Respondent No. 4 : Sh. Ravinder Nath Shetty

**AWARD**

Passed on 21.08.2015

Central Government *vide* Order No. L-42012/131/2010-IR(DU)) Dated 15.12.2010, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of M/s ITD Cementation India Limited, as sub-contractor of M/s Italian Thai Development Co. Ltd., Koldam Hydro Electric power Project, NTPC, Barmana, Bilaspur(HP) in terminating the services of Sh. Inder Singh s/o Sh. Bangalu Ram w.e.f. 14.08.2008 without following the principle of 'Last come First go' is legal and justified? If not, what relief the workman is entitled to?"

In response to the notice, workman appeared and submitted statement of claim pleading that the Respondent No. 1 i.e. the Principal Employer had given contract to the Respondent No. 3 and who in turn engaged Respondent No. 4 as Sub-contractor. The workman was appointed by the Respondent No. 4 on 12.5.2005 and continuously worked upto 14.8.2008, when his services were retrenched.

He has challenged the 'Retrenchment' on the grounds that persons junior to him were retained in service and also a large number of workers were employed after his termination and he prayed to be reinstated in service.

Respondent No. 4 filed written reply admitting that the workman was employed and was retrenched on completion of the work as per law and further no persons junior to the workman were retained in service nor any fresh appointments were made.

To that effect, Respondent No. 1 & Respondent No. 3 also filed their written statements.

However, Respondent No. 1 was proceeded against ex-parte *vide* order dt 23.3.2015.

Parties were given opportunity to lead evidence.

In support of his claim, Sh. Inder Singh, the workman appeared in the Witness Box and filed his affidavit supporting his claim as set out in the Statement of Claim.

On the other hand, Sh. Ravinder Nath Shetty was examined on behalf of Respondent No. 4 and Sh. Hem Raj

Sharma on behalf of Respondent No. 3 who filed their respective affidavits supporting the stand of management as taken in respective of written statements.

I have heard Sh. M.S. Gors, advocate for the workman, Sh. Ravinder Nath Shetty for Respondent No. 4 and Sh. Hem Raj Sharma for Respondent No. 3.

The admitted facts are that workman was employed by Respondent no. 4 and he worked for the period from 12.5.2005 to 14.8.2008, when he was retrenched after paying retrenchment compensation. The workman while appearing in witness box admitted that he has received the amount. Respondent No. 4 has given explanation that the workman was retrenched on completion of the work and this fact is not under challenge. There is nothing on the file that any worker junior to him was retrained in service; or some new appointments were made after termination of services of the workman as pleaded. Thus the 'Retrenchment' made in the present case cannot be said to be illegal or it cannot be said that the management did not follow the Principles of "last come first go".

As a result, the reference is answered against the workman and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2034.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोल पनबिजली बांध प्रोजेक्ट, एनटीपीसी, बिलासपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 96/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/10/2015 प्राप्त हुआ था।

[सं. एल-42012/124/2010-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2034.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 96/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the KOI Dam Hydro Electric Power Project, NTPC, Bilaspur and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42012/124/2010-IR(DU)]

P.K. VENUGOPAL, Desk Officer

## ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. 96/2011

Registered on 24-1-2011

Sh. Virender Singh S/o Sh. Hari Ram, Vill. Deol Chhamb, PO Harnora, Tehsil Sundernagar, Mandi (HP).

...Applicant

*Versus*

1. The General Manager, Kol Dam Hydro Electric Power Project, NTPC, VPO Barmana, Bilaspur.
2. The Managing Dir., M/s AKS Engineers and Contractors Kol Dam Hydro Electric Power Project, Sanjay Sadan, Chhota Shimla-171002.
3. Proj. Manager, Italian Thai Development Co. Ltd., Kol Dam Hydra Electric Power Project, Village Kayam, PO Slapper, Tehsil, Sundernagar, Mandi.
4. The ITD Cementation India Ltd., Kol Dam Hydro-Electric Power Project, Village Kayan, PO Slapper, The Sundernagar, Mandi (HP).

...Respondents

## APPEARANCES

For the workman — Sh. M.S. Gors for the workman  
For the Management — Respondent No. 1 ex parte  
— Sh. H.R. Sharma for Resp. No. 3  
— Sh. Ravinder Shetty for Resp. No. 4

## AWARD

Passed on 21.8.2015

*Vide* Order No. L-42012/124/2010-IR(DU), dated 15.12.2010 the Central Government in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

"Whether the action of the management of M/s ITD Cementation India Ltd., a sub contractor of M/s Italian Thai Development Public Co. Ltd. in the Koldam Hydro-Electric Project of NTPC, Barmana, Bilaspur (HP), in terminating the services of Sh. Virender Singh S/o Sh. Hari Ram *w.e.f.* 14.8.2008 without following the principle of 'Last come First go' is legal and justified? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and filed statement of claim, pleading that respondent No. 1 is the principal employer and constructing "Kol Dam Hydro

Electrical Power Project", at Harmonda. Respondent No. 2 is a main contractor who had engaged respondent No. 3 as sub-contractor, who in turn engaged respondent No. 4 as sub-contractor.

The workman was appointed through respondent No. 4 on 12.5.2005 and worked continuously till 14.8.2008, when he was 'retrenched'.

The workman has challenged the 'retrenchment' on the ground that the persons junior to him were retained in service as well as the management employed large number of workers after the termination of their services. That he be reinstated in service.

Respondent No. 4 filed written statement admitting that employed the workman and further pleaded that the workman was 'retrenched' due to completion of the work as per law and after paying him retrenchment compensation.

Written statement was filed by respondent No. 3 and respondent No. 1 on the same terms.

Respondent No. 1 was proceeded against ex parte, *vide* order dated 23.3.2015.

Parties were given opportunity to lead evidence.

In support of his case, Sh. Virender Singh appeared in the witness box and filed his affidavit supporting his case as set out in the claim petition.

On the other hand, Sh. Ravinder Nath Shetty and Sh. H.R. Sharma appeared in the witness box on behalf of respondent 4 and 3 respectively and file their affidavits supporting the stand taken by the respondent-management in the written statement.

I have heard Sh. M.S. Gorsia for the workman, Sh. H.R. Sharma for Respondent No. 3 and Sh. Ravinder Nath Shetty for Respondent No. 4.

There is a no denial of the fact that the workman was employed by respondent No. 4 on 12.5.2005 and he was 'retrenched' from service on 14.8.2008, after paying compensation as required under Section 25F of the Act. The workman Virender Singh while appeared in the witness box has admitted that he was paid Rs. 8375/- at the time of his termination of services. There is nothing to suggest that 'retrenchment' made by respondent No. 4 is invalid.

The objection taken by the workman is that persons junior to him were retained in service, as well as the management employed more persons after the termination of his services. But there is no cogent evidence on the file to prove the said fact and Sh. Ravinder Shetty has specifically deposed that work was completed and on that account, the retrenchment was made, Again he has specifically stated that no person was employed after the retrenchment of the workman and no person junior to the workman were retained in service. Thus, it cannot be said

that management did not follow the principle of 'last come first go' and the retrenchment of the workman cannot be termed as illegal.

The reference is answered accordingly holding the termination of the services of the workman is legal and valid and workman is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2015

**का.आ. 2035.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोल पनबिजली बांध प्रोजेक्ट, एनटीपीसी, बिलासपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 98/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/10/2015 प्राप्त हुआ था।

[सं. एल-42012/129/2010-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 12th October, 2015

**S.O. 2035.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 98/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the Kol Dam Hydro Electric Power Project, NTPC, Bilaspur and their workmen, which was received by the Central Government on 12/10/2015.

[No. L-42012/129/2010-IR(DU)]

P.K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. 98/2011

Registered on 24.1.2011

Sh. Vijay Kumar S/o Sh. Prem Das, Vill. Dhatoli, PO Khudla, Tehsil Sarkaghat, Mandi (HP).

...Applicant

*Versus*

1. The General Manager, Kol Dam Hydro Electric Power Project, NTPC, VPO Barmana, Bilaspur.
2. The Managing Dir., M/s AKS Engineers and Contractors Kol Dam Hydro Electric Power Project, Sanjay Sadan, Chhota Shimla-171002.

3. Proj. Manager, Italian Thai Development Co. Ltd., Kol Dam Hydro Electric Power Project, Village Kayam, PO Slapper, Tehsil, Sundernagar, Mandi.
4. The ITD Cementation India Ltd., Kol Dam Hydro-Electric Power Project, Village Kayam, PO Slapper, The Sundernagar, Mandi (HP).

...Respondents

#### APPEARANCES:

For the workman : Sh. M.S. Gorski for the workman  
 For the Management : Respondent No. 1 ex parte  
                               : Sh. H.R. Sharma for Resp. No. 3  
                               : Sh. Ravinder Shetty for Resp. No. 4

#### AWARD

Passed on 21.8.2015

*Vide* Order No. L-42012/129/2010-IR(DU), dated 15.12.2010 the Central Government in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

"Whether the action of the management of M/s ITD Cementation India Ltd., a sub contractor of M/s Italian Thai Development Public Co. Ltd. in the Koldam Hydro-Electric Project of NTPC, Barmana, Bilaspur (HP), in terminating the services of Sh. Vijay Kumar S/o Sh. Prem Das *w.e.f.* 17.8.2008 without following the principle of 'Last come First go' is legal and justified? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and filed statement of claim, pleading that respondent No. 1 is the principal employer and constructing "Kol Dam Hydro Electrical Power Project", at Harmonda. Respondent No. 2 is a main contractor who had engaged respondent No. 3 as sub-contractor, who in turn engaged respondent No. 4 as sub-contractor.

The workman was appointed through respondent No. 4 on 7.5.2005 and worked continuously till 17.8.2008, when he was 'retrenched'.

The workman has challenged the 'retrenchment' on the ground that the persons junior to him were retained in service as well as the management employed large number of workers after the termination of their services. That he be reinstated in service.

Respondent No. 4 filed written statement admitting that it employed the workman and further pleaded that the workman was 'retrenched' due to completion of the work as

per law and after paying him retrenchment compensation.

Written statement was filed by respondent No. 3 and respondent No. 1 on the same terms.

Respondent No. 1 was proceeded against ex parte, *vide* order dated 23.3.2015.

Parties were given opportunity to lead evidence.

In support of his case, Sh. Vijay Kumar appeared in the witness box and filed his affidavit supporting his case as set out in the claim petition.

On the other hand, Sh. Ravinder Nath Shetty and Sh. H.R. Sharma appeared in the witness box on behalf of respondent 4 and 3 respectively and file their affidavits supporting the stand taken by the respondent-management in the written statement.

I have heard Sh. M.s. Gorski for the workman, Sh. H.R. Sharma for Respondent No. 3 and Sh. Ravinder Nath Shetty for Resondent No. 4.

There is a no denial of the fact that the workman was employed by resondent No. 4 on 7.5.2005 and he was 'retrenched' from service on 17.8.2008, after paying compensation as required under Section 25F of the Act. The workman Vijay Kumar while appeared in the witness box has admitted that he was paid Rs. 7000/- at the time of his termination of services. There is nothing to suggest that 'retrenchment' made by respondent No. 4 is invalid.

The objection taken by the workman is that persons junior to him were retained in service, as well as the management employed more persons after the termination of his services. But there is no cogent evidence on the file to prove the said fact and Sh. Ravinder Shetty has specifically deposed that work was completed and on that account, the retrenchment was made, Again he has specifically stated that no person was employed after the retrenchment of the workman and no person junior to the workman were retained in service. Thus, it cannot be said that management did not follow the principle of 'last come first go' and the retrenchment of the workman cannot be termed as illegal.

The reference is answered accordingly holding the termination of the services of the workman is legal and valid and workman is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2015

**का.आ. 2036.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली डेवलपमेंट अथॉरिटी एण्ड अदर्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार



औद्योगिक अधिकारण एवं श्रम न्यायालय 1, दिल्ली के पंचाट (संदर्भ सं० 35/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/10/2015 को प्राप्त हुआ था।

[सं० एल-42011/128/2014-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi the 14th October, 2015

**S.O. 2036.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 35/2015) of the Central Government Industrial Tribunal-Cum-Labour Court, No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Development Authority and Others and their workmen, which was received by the Central Government on 13/10/2015.

[No. L-42011/128/2014-IR (DU)]  
P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT NO. 1, KARKARDOOMA  
COURT COMPLEX, DELHI**

**ID No. 35/2015**

Indian Steel and Metal Workers Union,  
C/o 1800/9, Govindpuri Extension,  
Main Road, Kalkaji,  
New Delhi—110019

....Workman

*Versus*

1. The Secretary,  
Delhi Development Authority  
Siri Fort Sports Complex,  
August, Kranti Marg,  
Khel Gaon,  
New Delhi-110049
2. M/s Niti Enterprises,  
L-88, Kisan Vihar,  
New-Delhi
3. M/s International (Ex-Servicemen) Security Service,  
A/3B, Janta (near Central School),  
Tagore Garden Extension),  
New Delhi-110027
4. M/s Deepali (India) Enterprises  
178, Block 14, Ground Floor,  
L.B.S. Hospital, Khichripur,  
New Delhi-110019

....Managements

#### AWARD

Central Government, *vide* letter No.L-42011/128/2014-IR(DU) dated 13.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the demands raised by the Indian Steel and Metal Workers Union (Regd.) against the managements of Delhi Development Authority/NITI Enterprises/Deepali (India) Enterprises/International Ex-servicemen Security Service as mentioned above and available on 2nd page of the original application are just, fair and legal? If yes, what relief the workman concerned are entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Indian Steel and Metal Workers Union opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant union as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was serve upon the claimant union. Despite service of the notice, claimant union opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the claimant union is not interested in adjudication of the reference on merits.

4. Since the claimant union has neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated: October, 8, 2015

नई दिल्ली, 14 अक्टूबर, 2015

**का.आ. 2037.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इंस्टिट्यूट ऑफ़ टेक्नोलॉजी, कुरुक्षेत्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ सं० 75/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/10/2015 को प्राप्त हुआ था।

[सं० एल-42012/143/2012-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th October, 2015

**S.O. 2037.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 75/2012) of the Central Government Industrial Tribunal-Cum-Labour Court, No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Institute of Technology, Kurukshetra and Others and their workmen, which was received by the Central Government on 14/10/2015.

[No. L- 42012/143/2012-IR (DU)]  
P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I, CHANDIGARH**

Case No. ID No. 75 of 2012, Reference No. L-42012/143/2012/IR(DU) dated 21.1.2013

Sh. Rakesh Kumar son of Shri Neki Ram, Resident of VPO Pabnawa, District Kaithal, Haryana.

....Workman

*Versus*

1. The Director, National Institute of Technology, Kurukshetra.

....Respondent.

#### APPEARANCES:

For the Workman : None.

For the Management : Shri S.S. Chokhar Advocate.

#### AWARD

Passed on:— 08.10.2015

Government of India, Ministry of Labour *vide* notification No. L-42012/143/2012/IR(DU) dated 21.1.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the demand of Shri Rakesh Kumar son of Shri Neki Ram for reinstatement and regularisation in service with the management of Director, NIT, Kurukshetra *w.e.f.* 21.08.2008 as Security Guard is just, fair and legal? If not, what relief the workman is entitled to?"

2. Case repeatedly called. None appeared for the workman nor any witness is present on behalf of the workman. On the last date of hearing also, no one was present on behalf of the workman. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed, Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.  
08.10.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2015

**का.आ. 2038.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इंस्टिट्यूट ऑफ़ टेक्नोलॉजी, कुरुक्षेत्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय 1, चंडीगढ़ के पंचाट (संदर्भ सं० 76/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/10/2015 को प्राप्त हुआ था।

[सं० एल-42012/144/2012-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th October, 2015

**S.O. 2038.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 76/2012) of the Central Government Industrial Tribunal-Cum-Labour Court, No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Institute of Technology, Kurukshetra and their workmen, which was received by the Central Government on 14/10/2015.

[No. L- 42012/144/2012-IR (DU)]  
P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I, CHANDIGARH**

Case No. ID No. 76 of 2012, Reference No.-L42012/144/2012/IR(DU), dated 21.1.2013

Sh Gurmit Singh son of Shri Rakam Singh, Resident of VPO Barsana, Tehsil and District Kaithal, Haryana.

....Workman

*Versus*

The Director, National Institute of Technology, Kurukshetra.

....Respondent.

#### APPEARANCES:

For the Workman : None.

For the Management : Shri S.S. Chokhar, Advocate.

**AWARD**

Passed on— 08.10.2015

Government of India, Ministry of Labour *vide* notification No. L-42012/144/2012/IR(DU) dated 21.1.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the demand of Shri Gurmit Singh son of Shri Rakam Singh, Ex-security guard, for reinstatement and regularisation in service with the management of Director, NIT, Kurukshetra *w.e.f.* 22.04.2009 as Security Guard is just, fair and legal? If not, what relief the workman is entitled to?"

2. Case repeatedly called. None appeared for the workman nor any witness is present on behalf of the workman. On the last date of hearing also, no one was present on behalf of the workman. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.  
08.10.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 2015

**का.आ. 2039.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन इंस्टिट्यूट ऑफ टेक्नोलॉजी, चेन्नई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 88/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/10/2015 को प्राप्त हुआ था।

[सं एल-42012/110/2014-आईआर (डीयू)]  
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th October, 2015

**S.O. 2039.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. 88/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Institute of Technology, Chennai and their workman, which was received by the Central Government on 13/10/2015.

[No. L-42012/110/2014-IR (DU)]  
P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHENNAI**

Wednesday, the 30th September, 2015

**Present:** K.P. PRASANNA KUMARI,  
Presiding Officer

Industrial Dispute No. 88/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Institute of Technology, Chennai and their workman)

**BETWEEN:**

Smt. Mary @ Lourdhumary : 1st Party/Petitioner

**AND**

The Registrar : 2nd party/Respondent  
Indian Institute of Technology  
IIT Campus, Sardar Patel Road  
Chennai-600036

**APPEARANCE:**

For the 1st Party/Petitioner : Sri R.S. Vaideeswaran,  
Advocate

For the 2nd Party/Respondent : Sri R. Parthiban,  
Advocate

**AWARD**

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-42012/110/2014-IR(DU) dated 07.10.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Kannagi Self Help Group under the OW-Zone Project of IIT Campus Welfare Trust is justified in denying to give job to Smt. Mary @ Lourdhumary? If not to what relief is the workman entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 88/2014 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was working in the Respondent institution in the Department of Maintenance as Sanitary

Worker from 01.02.2005 to 31.07.2012 for a monthly salary of Rs. 8,000/- The Respondent has terminated the petitioner from service illegally without following statutory labour regulations and without giving any Show Cause Notice. There was no valid cause for terminating the petitioner from service. The petitioner had requested the Respondent to regularize her in service. The petitioner has sent a lawyer notice to the Respondent on 11.12.2013. But she did not receive any reply so far. The dispute is raised accordingly. The petitioner is entitled to be reinstated in service as a regular worker. She is entitled to Rs. 4.00 lakhs as compensation also.

4. The Respondent has filed Counter Statement contending as below"

The Respondent is an academic insitution running primarily on the grants provided by Ministry of Human Resources Development Kannagi Self-Help Group represented by its President referred to in the order of reference is a necessary party to the proceedings. So the claim is liable to be rejected. The claim of the petitioner that she was working as Sanitary Worker in the Department of Maintenance of the Respondent is incorrect. There is no Department of Maintenance in the Respondent institution. The Respondent does not employ any sanitary worker directly. The Respondent understands that the petitioner was engaged by Kannagi Self-Help Group for garbage segregation from 2006. The Self-Help Groups were initiated to find effective mechanism for disposal of garbage in the residential area of IIT Madras Campus in the year 2005. The Respondent extended its support to the group by constructing sheds for collection of waste, providing dustbins, tricycles, tool kilts etc. inside the campus and also arranged to make deductions from the salaries of the residents for ease of payment by the residents to the Self-Help Groups. The Groups were primarily engaged for cleaning and upkeep of around 1000 residential premises inside the campus of the Institute. Their work included sweeping of the streets and door to door garbage collection in the campus. Later they were collecting waste from 80 academic building also. The members of the Self-Help Groups are paid daily wages by the concerned Self-Help Groups. During the material period the liaison between the Slef-Help Group and IITM was through the volunteers of the Women's Club of IITM. At present, this is coordinated by IIT Madras Campus Welfare Trust, an independent trust which came into existence in the year 2012. The petitioner was employed by Kannagi Self Help Groups. Several others were also employed under the Group. Their work included sweeping of the streets and door to door garbage collection in the campus. These persons render services to the residents. The work cannot be treated as an Industry. It will not come under the definition of Industry under Section-2(j) of the Industrial Disputes Act. It is incorrect to state that the Respondent has terminated the petitioner from service. There was never any employer- employee

relationship between the petitioner and the Respondent. It was not in the knowledge of the Respondent that the petitioner was hired or terminated by the Self-Help Group, till the issue was raised by the petitioner. The claim of the petitioner for reinstatement in the service of the Respondent is not tenable. The Respondent did not receive any lawyer notice from the petitioner. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement and reiterating her case in the Claim Statement.

6. The evidence in the case consists of the oral evidence of WW1 and MWs 1 and 2 and documents marked as Ext. W1 to Ext. W3 and Ext. M1.

#### 7. Point for consideration is:

"Whether the petitioner is entitled to reinstatement as claimed by her?"

#### The Point

8. In the Claim Statement the petitioner has claimed that she had worked in the Department of Maintenance of Respondent insitution as Sanitary Worker for the period from 01.02.2005 to 31.07.2012. According to her, she was suddenly terminated by the Respondent illegally without any notice and without following the statutory provisions. She has claimed an order for reinstatement in the service of the Respondent as a "regularized" worker and also compensation of Rs. 4.00 lakhs.

9. The prayer of the petitioner in the Claims Statement has no connection with the order or reference. On going through the order of reference what is to be understood is that it is Kannagi Self-Help Group under Ozone Project of IIT Campus welfare Trust that denied job to the petitioner. However, in the Claim Statement there is no reference to Kannagi Self-Help Group who is said to have denied job. The claim in the Claim Statement is that the petitioner was working directly under the Respondent and it is the Respondent who has terminated her from service. The claim of the petitioner for reinstatement with the Respondent could not be entertained even on account of the fact that the schedule of reference does not refer to the Respondent as the employer of the petitioner or as the one who has denied job to her.

10. The petitioner who is examined as WW1 has reiterated her case in the Claim Statement, in the affidavit of Chief Examination filed by her also. She has asserted during her cross-examination that she had worked with the Respondent for 8 years from 01.02.2005 to 31.07.2012 on a monthly salary of Rs. 8,000/-. She has even stated that before taking leave she used to give leave application to the office. However, she has stated at the subsequent stage of cross-examination that wife.of IIT. Director was in-charge of the employees and no employees can be terminated



without consulting her. IIT Director's wife is not one who has anything to do directly with the Respondent institution. The case of the petitioner referring to the wife of IIT Director only supports the case of the Respondent that initially the Ladies Club of IIT Campus was taking up the work of cleaning of the residential premises in the campus through the several Self-Help Groups including Kannagi Self-Help Group which according to the Respondent had employed the petitioner.

11. Apart from the oral version of the petitioner there is no other evidence on the part of the petitioner to prove that she has been directly employed by the Respondent. The only documents worth mentioning are the copies of some Casual/Contract Labour Pass produced by the petitioner and marked as Ext. W1. These are intended only for entry into the Institution. This would not show that the Respondent is the employer of the petitioner. These are described as Contract Labour Pass as well. So these documents are not of any relevance except in concluding that the petitioner was getting entry into the premises of the Respondent with the help of the pass. Not even a single document is produced to prove that the petitioner had been working under the Respondent directly from the year 2005.

12. The Assistant Register of the Respondent has been examined as MW1. He has described the manner in which the garbage in the IIT campus used to be removed. He has stated that Self-Help Groups were doing the work and this was envisaged as a community based project called Ozone to be executed through Self-Help Groups. The Groups were primarily engaged for cleaning and upkeep of around 1000 residential premises inside the campus of the Institute. Later the groups were collecting waste from the academic buildings also. The members of the Self-Help Groups were paid daily wages by the concerned Self-Help Group. He has further stated that payment to the Self-Help Groups was made by the Ladies Club who was taking care of the cleaning. The staff who were staying in the campus have to pay some payment towards cleaning charges. This amount will be deducted from the salary and given to the Ladies Club.

13. There is also the evidence given by MW2 who was working as Accounts Assistant of the Ladies Club in the campus of the Respondent. He had stated that Kannagi Self-Help Group was engaged by the Ladies Club for garbage collection, segregation and disposal from the year 2006. There were four other Self-Help Groups also. About 70 daily wage workers were engaged through these Self-Help Groups. This witness has also stated that the Respondent arranged to make deduction from the salaries of the residents to facilitate payment of wages to Self-Help Group workers by the residents. He has further stated that the leader of the Self-Help Group will take attendance and will disburse wages at the end of the month. According to

him the Ladies Club used to facilitate issue of Contract Worker Pass by the Security section of the Respondent to the workers of the Self-Help Groups. He has further stated that due to illness of the petitioner her husband has approached the Office of the Ladies Club and they had disbursed Rs. 19,236/- through cheque to the petitioner on 27.08.2012. This according to him was done as a welfare measure. There is no reason to reject the evidence of MW2 regarding the manner in which the Self-Help Groups were utilized by the Ladies Club in the residential premises of the Respondent for disposal of waste. This witness has stated that every month the Self-Help Groups used to produce Attendance Register before him and he will be making payment on that basis.

14. During her cross-examination Ext. M1 was shown to the petitioner and she has admitted that this was the letter written by her to the Director, IIT. A translation of the letter which is in Tamil has been furnished. As revealed from the letter the petitioner has been working in Ozone Project from 2005 to 2012. She has further stated that due to her family problems and due to her mental illness she has left the job and she has received Rs. 19,363/- from Ms. Vijayalakshmi on her leaving. MW2 has stated during his cross-examination that Vijayalakshmi referred to in Ext. M1 was in-charge of the Ozone Project at the time and was authorized to sign cheques, etc. He had also given details of the circumstances under which the payment was made. Thus what is to be seen from Ext. M1 is that the petitioner has left her job with the Self-Help Group on her own because of her illness and other problems. The evidence available is sufficient to show that there was no employer-employee relationship between the petitioner and the Respondent. This is what is to be deciphered from the order of reference also. Before the Conciliation Officer there seems to have been no case for the petitioner that she was working directly under the Respondent. On the other hand her claim was that she was denied job by the Self-Help Group that employed her. She has not thought it necessary to make the Self-Help Group a party. In the absence of employer-employees relationship the petitioner is not entitled to any relief from the Respondent.

15. It is pointed out on behalf of the Respondent that in any case the petitioner has not worked for 240 days preceding the date of her alleged termination and so she could not be said to have been in continuous employment and for this reason itself she would not be entitled to any relief. The case of the petitioner in the Claim Statement as well as the Proof Affidavit is that she had worked until 31.07.2012. She has stated during her cross-examination that she has not attended duty during the whole month of July 2012. She worked only for 7 days in the month of June 2012. During May, she worked only for 1 day. During April, she is said to have worked for 28 days. Referring to the

admission made by the petitioner during her cross-examination it is pointed out by the counsel for the Respondent that she could not have worked for more than 240 days in the 12 months preceding 31.07.2012 if her evidence is taken into account. She has not produced any evidence to show that she had worked for more than 240 days during the 12 months preceding her alleged termination so she could not be deemed to have been in continuous employment. Considered from any point of view, the petitioner is not entitled to any relief.

In view of my discussion above, the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th September, 2015)

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1st Party/Petitioner : WW1, Smt. M. Mary

For the 2nd Party/Management : MW1, Sri. Y.E.L.  
Sudhakar Rao Punjari  
MW2, Sri V. Sivakumar

**Documents Marked:**

**On the petitioner's side:**

Ex.No.	Date	Description
Ext. W1	-	Contract Worker Pass of the Petitioner
Ext. W2	-	Death Certificatge of the Petitioner's fatyher Francis Jothy dated 15.02.1991
Ext. W3		Petitioner's Lawyer Notice dated 11.12.2012 with Acknowledgement Card & Receipt

**On the Management's side**

Ex. No.	Date	Description
Ext. M1	11.10.2013	Representation made by Petitioner to the Director.